

§ 1464.302

7 CFR Ch. XIV (1-1-01 Edition)

§ 1464.302 Administration.

(a) This subpart shall be administered by CCC under the general supervision of the Executive Vice President of the CCC and the Deputy Administrator for Farm Programs of the Farm Service Agency of the Department of Agriculture (who shall be hereafter referred to in this part as the “Deputy Administrator”). The program shall be carried out in the field by State and county Farm Service Agency committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No delegations herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 1464.303 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the Tobacco Disaster Assistance Program of this subpart. The terms defined in § 723.104 of this title shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Eligible tobacco means 1999 marketing year flue-cured tobacco, (types 11, 12, 13 and 14).

Tobacco producer means one who possesses a beneficial interest in eligible tobacco as defined in this subpart.

§ 1464.304 Loss requirements.

Except as otherwise determined by the Deputy Administrator consistent with the provisions of Public Law. 106-113 authorizing the payment of the \$2.8 million, to qualify for payment under this part, the person seeking the payment must have had a loss of eligible tobacco in 1999 in North Carolina due to hurricanes Dennis, Floyd or Irene and such loss must have been a quality or quantity loss on crops harvested and placed in a warehouse and not yet sold at the time that the loss occurred in the warehouse.

§ 1464.305 Signup.

(a) For losses in North Carolina (as provided for in § 1464.304) a request for benefits under this subpart must be submitted to the CCC at the county FSA office that is designated as the administrative office for the farm on which the tobacco was produced. All requests for benefits and supporting documentation must be filed in the county FSA office by the date established by the Deputy Administrator. However, parties seeking an exception to the normal rules of eligibility in § 1464.304 shall, in lieu of filing a claim with the county committee, file a petition directly with the Deputy Administrator. Such petitions for exception must be filed by the date established by the Deputy Administrator for filing requests for benefits and supporting documentation, or fifteen days after the date of the publication of this regulation, whichever is later, in order to be considered.

(b) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be provided.

§ 1464.306 Proof of loss.

(a) Tobacco producers must, in accordance with instructions issued by the Deputy Administrator, provide adequate proof that they suffered the claimed loss. The documentary evidence of the loss, quantity of the loss

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and type of tobacco claimed for payment shall be reported to CCC together with any supporting documentation as may be required under paragraph (b) of this section.

(b) The tobacco producer shall provide any available supporting documents that may be requested by the Farm Service Agency county committee for purposes of verifying the loss. Examples of supporting documentation include, but are not limited to: auction barn floor sheets, transportation receipts, and any other documents available to confirm the presence of the tobacco on the warehouse floor and the subsequent losses. Certifications of third parties or the producer and other such documentation as the county committee determines to be necessary in order to verify the information provided by the producer may be requested and be subject to review by the county committee. Failure to provide documentation that is satisfactory to the county committee will result in disapproval of the application by the county committee.

(c) In all circumstances, tobacco producers shall certify the accuracy of the information provided.

§ 1464.307 Benefits.

The payment amount shall be determined by apportioning the available funds on a poundage basis among the timely claims that are filed, with an allowance for a reserve to handle disputes. The Deputy Administrator may make a preliminary payment before making a final payment in which case later adjustments may be made and a refund may be due from the payee to the CCC after such an adjustment.

§ 1464.308 [Reserved]

§ 1464.309 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except that the regulations governing offsets and withholdings found at part 1403 of this chapter shall be applicable to pay-

ments made under this part and such offsets and withholdings may be taken against such payments.

(b) Any producer entitled to any payment may assign the right to receive such payments, in whole or in part, as provided in part 1404 of this chapter.

§ 1464.310 Misrepresentation and scheme or device.

(a) A producer who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to payments and must refund all payments, plus interest determined in accordance with part 1403 of this chapter.

(b) A producer who is determined to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination, shall refund to CCC all payments, plus interest determined in accordance with part 1403 of this chapter received by such producer with respect to all applications and the producer's interest in all applications shall be terminated.

§ 1464.311 Refunds to CCC.

(a) Persons who are party to the tobacco disaster assistance program application must refund to CCC any excess payments made by CCC with respect to such application.

(b) In the event that a benefit under this subpart was established as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

§ 1464.312 Cumulative liability.

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.